

TYPE III DEVELOPMENT & ENVIRONMENTAL REVIEW, STAFF REPORT & RECOMMENDATION

Form DS1402



Project Name: THOMAS JEFFERSON MIDDLE SCHOOL

Case Number: CUP2006-00008; SEP2006-00120

Hearing Examiner: Daniel Kearns

Location: 2700 NW 119th Street

Request: Conditional use permit to allow Thomas Jefferson Middle School an out of basin transfer to the public regional Miller Pond stormwater facility to rectify the existing stormwater problems

Applicant: Kelly Bachelder
1104 Main Street, Suite 100
Vancouver, WA 98660
Phone - (360) 750-1131 **Fax** - (360) 750-1141
E-mail – thaidup@comcast.net

Property Owner: Vancouver School District
Attn: Heidi Rosenberg
PO Box 8937
Vancouver, WA 98668
Phone - (360) 313-1048

RECOMMENDATION

APPROVAL, subject to conditions

Team Leader's Initials: _____ **Date Issued:** July 19, 2006

Public Hearing Date: August 3, 2006

County Review Staff:

	<u>Name</u>	<u>Phone Ext</u>	<u>E-mail Address</u>
Planner:	Richard Daviau	4895	richard.daviau@clark.wa.gov
Engineer:	David Bottamini	4881	david.bottamini@clark.wa.gov
Team Leader:	Susan Ellinger	4272	susan.ellinger@clark.wa.gov
Eng. Supervisor:	Sue Stepan, P.E.	4064	sue.stepan@clark.wa.gov

Comp Plan Designation: Urban Low

Zoning:

R1-6

Legal Description:

Tax Lot 5,8,16,17 (187329) in the Southwest quarter of Section 28, Township 3 North, Range 1 East of the Willamette Meridian

Applicable Laws:

Clark County Code Chapters: 15.12 (Fire); 40.230.010 (Commercial District); 40.320 (Landscaping & Screening); 40.350.030 (Roads); 40.370.010 (Sewer); 40.370.020 (Water); 40.380 (Stormwater and Erosion Control); 40.5 (Procedures); 40.520.030 (Conditional Use Permits); and 40.570 (SEPA)

Neighborhood Association:

Felida, **Contact** - Milada Allen, **Address** – PO Box 61552, Vancouver, WA 98666, **Phone** – (360) 573-4030, **E-mail**-BSVANC@aol.com

Time Limits:

The application was determined to be fully complete on June 9, 2006 (see Exhibit No. 7). Therefore, the County Code requirement for issuing a decision within 92 days lapses on September 9, 2006. The State requirement for issuing a decision within 120 calendar days, lapses on October 7, 2006.

Vesting:

An application is reviewed against the subdivision, zoning, transportation, stormwater and other land development codes in effect at the time a fully complete application for preliminary approval is submitted. If a pre-application conference is required, the application can earlier contingently vest if a fully complete application for substantially the same proposal is filed within 180 calendar days of the date the county issues its pre-application conference report.

A pre-application conference was not required, so this application does not qualify for Contingent Vesting. The application was determined Fully Complete on June 9, 2006, and thereby, vested on the Fully Complete submittal date of June 5, 2006.

Public Notice:

Notice of application and public hearing was mailed to the applicant, neighborhood association contact, and property owners within 300 feet of the site on June 23, 2006. One sign was posted on the subject property and two within the vicinity on July 19, 2006. Notice of the Likely SEPA Determination and public hearing was published in the "Columbian" Newspaper on June 23, 2006. A public hearing will be held on August 3, 2006 which will offer the public further opportunity to comment on the proposed development.

Public Comments:

The County has not received written comments to date regarding the proposal.

Project Description/Background

The Thomas Jefferson Middle School received final site plan approval on September 17, 2003, was constructed, and is in operation. The existing stormwater infiltration facility has failed to function as designed and flooding of surrounding properties has occurred. Therefore, the applicant is now proposing an out of basin transfer to the public regional Miller Pond stormwater facility which requires a conditional use permit.

Major Issues and Analysis

Staff first analyzed the proposal in light of the 16 topics from the Environmental Checklist (see list below). The purpose of this analysis was to identify any potential adverse environmental impacts that may occur without the benefit of protection found within existing ordinances.

- | | |
|---------------------------------|--|
| 1. Earth | 9. Housing |
| 2. Air | 10. Aesthetics |
| 3. Water | 11. Light and Glare |
| 4. Plants | 12. Recreation |
| 5. Animals | 13. Historic and Cultural Preservation |
| 6. Energy and Natural Resources | 14. Transportation |
| 7. Environmental Health | 15. Public Services |
| 8. Land and Shoreline Use | 16. Utilities |

Then staff reviewed the proposal for compliance with applicable code criteria and standards in order to determine whether all potential impacts will be mitigated by the requirements of the code.

Staff's analysis also reflects review of agency and public comments received during the comment period, and knowledge gained through a site visit.

Major Issues:

Only the major issues, errors in the development proposal, and/or justification for any conditions of approval are discussed below. Staff finds that all other aspects of this proposed development comply with the applicable code requirements, and, therefore, are not discussed below.

LAND USE:

Finding 1 – Conditional Use

Pursuant to CCC 18.404.060 A, *the establishment, maintenance or operation of a conditional use cannot be significantly detrimental to the health, safety or general welfare of persons residing or working in the neighborhood. Also, the proposed use cannot be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the county.*

The applicant proposes an out of basin transfer to rectify the existing stormwater problems on-site and prevent further flooding of neighboring properties. Staff finds this will be a positive impact on the surrounding neighborhood and will not be significantly detrimental or injurious to persons or property/improvements in the surrounding neighborhood or to the general welfare of the county.

Finding 2 – Site Plan

The only physical change to the Thomas Jefferson site that will result from the proposed conditional use will be to the stormwater facilities in the southwest corner of the site. There will also be some minor landscaping changes in this area, but staff has reviewed those changes (see plan sheet L1) and finds they will not be significant.

STORMWATER:

Finding 3 – Purpose of the proposal

According to the applicant, the purpose of the proposal is to rectify the existing stormwater problems at the Thomas Jefferson Middle School. Because the site is in a closed depression, the original stormwater facility utilized infiltration in accordance with the Clark County stormwater code. But on site attempts to retain and infiltrate all stormwater have failed to function as designed and flooding of surrounding properties occurred. Pumping of the stormwater to an off-site facility has been used as an interim measure to prevent further flooding of properties, but this is not a long term measure. Therefore, after exhausting on site options for complete storm detention and infiltration, the applicant proposes to detain and infiltrate as much stormwater as possible on site, and apply for an out of basin transfer to the public regional Miller Pond facility.

Finding 4 – The Applicant's Stormwater Proposal

The existing site is a school campus consisting of Thomas Jefferson Middle School and Felida Elementary. The campus currently utilizes an underground storm drainage system, bioswales for treatment and large drain rock and pipe storage systems for detention. There are two existing bioswales on site. During the larger storm events, these swales will be utilized for storage. The site currently has three large infiltration systems, two of which are functioning at rates less than designed. Because the infiltration is deficient, the stormwater will now be piped off site. The applicant states that the project consists of excavating a small pond in the southwest corner of the site adjacent to an existing bioswale and constructing underground storm drainage conveyance systems in NW 31st Avenue to connect to the existing public system. The existing stormwater detention and infiltration system on site will continue to be utilized. All of the stormwater from the site and the adjacent half-streets are collected and treated on site. Because the project is not adding impervious surface, the current method of mitigating runoff quality impacts by pollution control catch basins and biofiltration swales will not be altered.

The applicant states that the school campus will utilize the existing Miller Pond for further detention. This public, regional facility was constructed as part of the Teal Pointe residential development. According to the applicant, the school campus site at pre-developed conditions was included in the design and construction of Miller Pond. The original pond was designed before Thomas Jefferson Middle School was constructed and therefore the impervious surface contained in that project was not included when sizing the pond. The additional runoff from the middle school site will be detained on site and metered to meet the flows included in the original Miller Pond design.

The technical information report includes a verification of storage capacity and necessary adjustments to the conveyance system to ensure no reduction in the ability of the public system to accommodate the 100-year storm. A letter of commitment from the school district to pay the required latecomer fee to the County to be reimbursed to the

Teal Pointe Joint Venture according to the Stormwater Facility Reimbursement Agreement dated May 30, 1995 is included in this application.

The applicant states that a basin transfer to the Miller Pond facility provides equal environmental protection and is in the overriding public interest. The objectives of safety, function, environmental protection and facility maintenance, based upon sound engineering, are also fully met as described in the technical information report. The stormwater from the site can be accommodated by some on site detention and infiltration, and connection to the existing public stormwater facility to the north without detriment to the public health and welfare. The stormwater overflow from the school has been directed to the facility on an interim basis for over a year with little negative impact to the properties in the vicinity or downstream or to the quality of Salmon Creek. The only impacts to the adjacent neighbors with the use of the Miller Pond facility have been the concerns about the potential for a repeat flood of adjacent properties and the inconvenience of the noise and location of the interim pump and hose connection to the system. It is expected that these temporary impacts will end once the permanent underground connection to the system is installed.

The applicant states that the peak release rates from the site will not exceed the maximum as allowed by the Miller Pond design and take into account the code change since the pond was constructed for the 2-year, 10-year, and 100-year design storms. The allowed release rates are 0.97 cfs for the 2-year storm, 5.05 cfs for the 10-year storm, and 8.70 cfs for the 100-year storm. The proposed release rates are 0.92 cfs for the 2-year storm, 4.72 cfs for the 10-year storm, 8.70 cfs for the 100-year storm.

The applicant states that the proposed storm drainage system will consist of the existing collection and infiltration/detention system along with a small proposed detention pond for additional storage. The infiltration rates used in the design are from infiltration tests of the actual in place systems. The infiltration rates used included 6 in./hr. for system #1, 0.5 in./hr. for system #2, and 0.7 in./hr. for system #3. The 2-year and 10-year design storms are infiltrated, detained in the existing systems, and released per the allowed release rates without overflowing to the new detention pond area that will be constructed with this project. The 100-year design storm will utilize the proposed detention pond for storage prior to being released to the public storm system and eventually Miller Pond.

The applicant states that the conveyance systems for the project include overland flow and underground piping. The underground piping conveyance system has been designed to convey the 25-year, 24-hour design storm with no surcharge per the requirements of CCC 40.380.040(C).

The onsite stormwater quality and quantity facilities for the project are to be privately owned and maintained by the Evergreen School District. A maintenance and operation manual has been provided by the applicant. The applicant states that the facilities to be maintained under this plan consist of trapped catch basins, sedimentation manholes, flow control manholes, storm piping, bioswales and infiltration trenches.

In summary, the applicant states that the project consists of excavating a small pond in the southwest corner of the site adjacent to an existing bioswale and constructing

underground storm drainage conveyance systems in NW 31st Avenue to connect to the existing public system. The existing stormwater detention and infiltration system on site will continue to be utilized.

Finding 5 – Analysis of the Stormwater Proposal

The stormwater report identifies the 100-year/24-hour storm precipitation depth as being 4.0 inches. The 10-year/24-hour storm event precipitation depth is 3.0 inches. In addition, the 2-year/24-hour storm event precipitation depth is identified as being 2.0 inches.

The Natural Resource Conservation Service (NRCS) indicates the site to be underlain by Hillsboro silt loam (83% is HoB and 17% is HoA) which is a part of hydrologic soil group “B”. The proposal indicates a curve number (CN) of 80 applies to the post developed pervious surfaces and a CN of 98 applies to the impervious surfaces.

The applicant is responsible for determining that the Miller Pond facility has sufficient capacity to receive the additional runoff from Thomas Jefferson Middle School. The applicant shall verify the entire downstream conveyance system has the capacity to convey the flows from the project site. An offsite analysis extending a minimum of one-fourth of a mile downstream from the development site in compliance with the provisions of Section CCC 40.380.040(B)(2) is required. (See Condition A-1a)

Prior to the final plat approval, the applicant shall submit an inspection report, stamped by a licensed engineer in the State of Washington, indicating that the quantity control features of the existing Miller Pond stormwater facility are functioning as designed. (See Condition C-1)

All conditions of the original decision associated with Thomas Jefferson Middle School still apply unless any are altered as a result of the new conditions identified in this staff report. (See Condition A-1b)

Conclusion (Stormwater):

Staff concludes that the proposed preliminary stormwater plan, subject to the conditions above, is feasible. Therefore, the requirements of the preliminary plan review criteria are satisfied.

SEPA DETERMINATION

The likely SEPA determination of Non-Significance (DNS) in the Notice of Development Review Application issued on June 23, 2006, 2006 is hereby final.

SEPA Appeal Process:

An **appeal** of this SEPA determination and any required mitigation must be filed with the Department of Community Development within fourteen (14) calendar days from the date of this notice. The SEPA appeal fee is **\$178**.

A **procedural appeal** is an appeal of the determination (i.e., determination of significance, determination of non-significance, or mitigated determination of non-

significance). A **substantive appeal** is an appeal of the conditions required to mitigate for probable significant issues not adequately addressed by existing County Code or other law.

Issues of compliance with existing approval standards and criteria can still be addressed in the public hearing without an appeal of this SEPA determination.

Both the **procedural and substantive appeals** must be filed within fourteen (14) calendar days of this determination. Such appeals will be considered in the scheduled public hearing and decided by the Hearing Examiner in a subsequent written decision.

Appeals must be in writing and contain the following information:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 40.510.030(H) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
3. A brief statement describing why the SEPA determination is in error.

The decision of the Hearing Examiner on any SEPA procedural appeal can not be appealed to the Board of County Commissioners, but must pursue judicial review.

Staff Contact Person: Richard Daviau, (360) 397-2375, ext. 4895

Responsible Official: Michael V. Butts
Department of Community Development

RECOMMENDATION

Based upon the findings and conclusions stated above, staff recommends that the Hearing Examiner **APPROVE** this request with the understanding that the applicant is required to adhere to all applicable codes and laws, and is subject to the following conditions of approval:

Conditions of Approval

A	Final Construction/Site Plan Review Approval Review & Approval Authority: Development Engineering
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Prior to construction, a Final Construction Plan shall be submitted for review and approval to Development Engineering, consistent with the approved preliminary plan and the following conditions of approval:

- A-1 **Final Stormwater Plan** - The applicant shall submit and obtain County approval of a final stormwater plan designed in conformance to CCC 40.380 and the following conditions of approval:
- a. The applicant is responsible for determining that the Miller Pond facility has sufficient capacity to receive the additional runoff from Thomas Jefferson Middle School. The applicant shall verify the entire downstream conveyance system has the capacity to convey the flows from the project site. An offsite analysis extending a minimum of one-fourth of a mile downstream from the development site in compliance with the provisions of Section CCC 40.380.040(B)(2) is required (see Finding 5).
 - b. All stormwater conditions of the original decision associated with Thomas Jefferson Middle School still apply unless any are altered as a result of the new conditions identified in this staff report (See Finding 17)
- A-2 **Erosion Control Plan** - The applicant shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC 40.380.
- A-3 **Developer's Covenant:** – A “Developer Covenant to Clark County” shall be submitted for recording that specifies the following Responsibility for Stormwater Facility Maintenance: For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with Section 32.04.060. (Example: Deed dedicating required right-of-way)
- A-4 **Excavation and Grading** - Excavation/grading shall be performed in compliance with Appendix Chapter J of the 2003 International Building Code (IBC); and, drainage facilities shall be provided, in order to ensure that building foundations and footing elevations can comply with CCC 14.04.252.

B	Prior to Construction of Development Review & Approval Authority: Development Inspection
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Prior to construction, the following conditions shall be met:

- B-1 **Pre-Construction Conference** - Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County.

- B-2 **Erosion Control** - Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.
- B-3 **Erosion Control** - Erosion control facilities shall **not** be removed without County approval.

C	Provisional Acceptance of Development Review & Approval Authority: Development Inspection
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Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/site plan and the following conditions of approval:

- C-1 The applicant shall submit an inspection report, stamped by a licensed engineer in the State of Washington, indicating that the quantity control features of the existing Miller Pond stormwater facility are functioning as designed.

D	Occupancy Permits Review & Approval Authority: Customer Service
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- D-1 Prior to the issuance of an approval of occupancy for a site plan, the applicant shall submit a copy of the approved landscape plan(s) with a letter signed and stamped by a landscape architect licensed in the state of Washington certifying that the landscape and irrigation (if any) have been installed in accordance with the attached approved plan(s) and verifying that any plant substitutions are comparable to the approved plantings and suitable for the site.

<p>Note: Any additional information submitted by the applicant within fourteen (14) calendar days prior to or after issuance of this report, may not be considered due to time constraints. In order for such additional information to be considered, the applicant may be required to request a hearing extension and pay half the original review fee with a maximum fee of \$5,000.</p>
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<p>HEARING EXAMINER DECISION AND APPEAL PROCESS</p>
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This report to the Hearing Examiner is a recommendation from the Development Services Division of Clark County, Washington.

The Examiner may adopt, modify or reject this recommendation. The Examiner will render a decision within 14 calendar days of closing the public hearing. The County will mail a copy of the decision to the applicant and neighborhood association within 7 days

of receipt from the Hearing Examiner. All parties of record will receive a notice of the final decision within 7 days of receipt from the Hearing Examiner.

An **appeal** of any aspect of the Hearing Examiner's decision, except the SEPA determination (i.e., procedural issues), may be appealed to the Board of County Commissioners only by a party of record. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The appeal shall be filed with the Board of County Commissioners, Public Service Center, 1300 Franklin Street, Vancouver, Washington, 98668, within fourteen (14) calendar days from the date the notice of final land use decision is mailed to parties of record.

Any appeal of the final land use decisions shall be in writing and contain the following:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 40.510.030(H) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
3. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied, on to prove the error; and,
4. A check in the amount of **\$266** (made payable to the Clark County Board of County Commissioners).

Attachments:

- Proposed Plan
- Site Vicinity Map
- Zoning Map
- List of Exhibits Received to Date

A copy of the preliminary plan, SEPA Checklist and Code are available for review at:

**Public Service Center
Department of Community Development
1300 Franklin Street
P.O. Box 9810
Vancouver, WA 98666-9810
Phone: (360) 397-2375; Fax: (360) 397-2011**

A copy of the Clark County Code is also available on our Web Page at:
<http://www.co.clark.wa.gov>

